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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,148	12/13/2001	David Michael Matela	16258	3181

23556 7590 07/16/2003

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EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,148

Applicant(s)

MATELA ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 21-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-20 drawn to coform non-woven web classified in class 442, subclass 361.
 - II. Claims 21-40, drawn to a method for producing a coform non-woven web, classified in class, 264 subclass various.

2. The inventions are distinct, each from the other because:

Inventions of Group I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the coform non-woven web may be made by other processes such as air laying.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ralph Dean on July 8th, 2003 a provisional election was made with traverse to prosecute the invention of coform non-woven web claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Applicant is advised that the reply to this requirement to complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 18 is indefinite because it is unclear to the Examiner what is meant by “essentially vertical layering lay-down structure”. For purposes of examination this limitation will be construed as non-woven coform web.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-6,12-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al., US 5,952,251.

The patent issued to Jackson et al., discloses a water dispersible fibrous web comprising melt-spun continuous fibers, staple reinforcing polymer fibers, and an absorbent material (Column 45, 30-35, and Column 8, 55-60). Jackson et al., defines a coform web as continuous melt-spun reinforcing fibers intermixed with shorter absorbent fibers such as pulp and super-absorbents (Column 8, 10-15). The continuous fibers may be formed from various polymers such as polyesters, polyethylene terephthalate, polyamides, and a blend of at least two these materials (Column 9, 28-35). The staple fibers may be formed from the same polymers as listed above as well as nylons and polyurethanes (Column 9, 59-68). The absorbent material may consist of wood pulp fibers and super-absorbent materials in the form of particles, fibers or flakes (Column 10, 41-45,56-67). The amount of continuous fibers ranges from 30% to 35%, the staple fiber concentration ranges from 5% to 8%, and the amount of absorbent material ranges from 40% to 60% (Claims 18 and 19). Jackson et al., teaches in example 1 a non-woven comprising 50% continuous fibers and 50% of staple reinforcing polymer/pulp fibers wherein 80% is pulp and 20% is polymer (Column 18,55-65). Jackson et al., teaches that coform non-woven webs are well suited for personal absorbent care articles (Column 11, 20-30).

With regard to the dispersing the multicomponent fibers in the z-direction and the wicking distance recited claim 12, Jackson et al., does not explicitly state these limitations, however it is reasonable to presume said limitations are inherent to the coform web of Jackson et al. Specifically, support for said argument is found in the use of like materials (i.e., continuous fibers intermixed with super-absorbents) as well like processes such as those used to produce a

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coform non-woven web, which would result in the presently claimed property limitations. The burden is upon the Applicant to evidence the contrary.

6. Claims 1,2,6-9,12,14,and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Neely et al., PCT WO 00/66824.

The published PCT application to Neely et al., teaches a non-woven comprising continuous fibers oriented in a z-direction (Abstract). Neely et al., teaches enhancing the absorbency of the non-woven web with an absorbent such as super-absorbent particles as a coform (Page 8,1-3). The continuous fibers are bicomponent fibers made from various polyolefins, polycarbonates, polystyrenes, thermoplastic elastomers, fluoropolymers, and vinyl polymers (Page 7,6-31).

With regard to claim 12, Neely et al., does not explicitly state the wicking distance of the instantly claimed invention, however it is reasonable to presume said limitation is inherent to the coform web of Neely. Support for said argument is found in the use of like materials (i.e., continuous fibers intermixed with super-absorbents) to produce a coform non-woven web. The burden is upon the Applicant to evidence the contrary.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al., US 5,952,251 and Neely et al., PCT WO 00/66824 as applied to claim 1 above, and further in view of Fontenot et al., PCT WO 00/34567.

Jackson et al., and Neely et al., fail to teach the instantly claimed density range, however the published PCT application to Fontenot et al., teaches an absorbent airlaid composite comprising bicomponent and pulp fibers (Abstract). Fontenot et al., teaches a density of about .02 to .05 g/cc (Page 10,19-21). Therefore, motivated to provide a thin dense absorbent structure it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the coform non-woven webs of Jackson et al., and Neely et al., having the density range taught by Fontenot et al.

9. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al., US 5,952,251 as applied to claim 1 above and further in view of and Neely et al., PCT WO 00/66824

Jackson et al., is silent with regard to the specific use of bi-component fibers, however, Neely et al., teaches continuous bicomponent fibers made from various polyolefins, polycarbonates, polystyrenes, thermoplastic elastomers, fluoropolymers, and vinyl polymers (Page 7,6-31). With regard to the specific polymer arrangement it is commonly known in the art that bi-component fibers may generally take the form of sheath/core, side-by-side, island/sea, pie shaped and other heterogeneous configurations thereof. Thus, the recited A/B/A configuration would be encompassed under the general term of bi-component. Therefore, motivated to achieve a balance of desirable properties it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to use bi-component fibers as taught by Neely et al., in the fibrous web of Jackson et al.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls.
July 14, 2003


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700